

Exhibit E

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 In the matter of the application

4 for Instagram Account

5 CUAPARTHEIDDIVEST

6 Telephone Conference

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7
8 New York, N.Y.
9 March 24, 2025
4:00 p.m.

10 Before:

11 HON. JOHN G. KOELTL,

12 District Judge

13 APPEARANCES (Via Telephone)

14 MATTHEW PODOLSKY

15 Acting United States Attorney for the
Southern District of New York

16 BY: LAUREN PHILLIPS

ALEC WARD

17 PAIGE FITZGERALD

Assistant United States Attorneys

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1 THE COURT: Who is on the call, please?

2 THE DEPUTY CLERK: Judge, I just wanted to the call
3 the case.

4 In the matter of Instagram CUAPARTHEID DIVEST.

5 Counsel, can we indicate who is here for the record.

6 MS. PHILLIPS: Good afternoon. This is AUSA Lauren
7 Phillips. I am here in SDNY. I had walked through the warrant
8 this past weekend from the the DOJ Civil Rights Division. You
9 also have two individuals from DOJ Civil Rights, Principal
10 Deputy Chief Paige Fitzgerald and trial attorney Alec Ward.

11 THE COURT: Whoa. I am having a little difficulty
12 hearing you.

13 So the Southern District assistant U.S. attorney, what
14 is your name, please.

15 MS. PHILLIPS: My name is Lauren Phillips.

16 THE COURT: Spell your last name.

17 MS. PHILLIPS: P-h-i-l-l-i-p-s.

18 THE COURT: I don't know if anyone else is having a
19 little trouble hearing on the phone.

20 MS. FITZGERALD: No, your Honor.

21 My name is Paige Fitzgerald. I am the principal
22 deputy chief in the Civil Rights Division, Criminal Section. I
23 wanted to thank you for your time and attention this afternoon
24 before we start and I will allow my colleague, Mr. Alec Ward to
25 introduce himself.

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1 THE COURT: Okay. Ms. Fitzgerald, you are chief
2 where? In the Southern District or in Washington?

3 MS. FITZGERALD: I am in Washington, your Honor. I am
4 in the Civil Rights Criminal Division, where I'm the principal
5 deputy chief. Our component and our specific section, although
6 we have not typically appeared in the Southern District, we
7 brand ourselves as traveling AUSAs, so we actually do appear in
8 courtrooms all over the country. It is our first time before
9 you.

10 THE COURT: Okay. Thank you.

11 MR. WARD: Good afternoon, your Honor.

12 My name is Alec Ward. I am the assigned trial
13 attorney, equivalent to the line AUSA, from the Civil Rights
14 Division in Washington.

15 THE COURT: Okay.

16 And the agent should also be on the phone I take it?

17 MR. WARD: We do not have the affiant on this call,
18 your Honor.

19 THE COURT: Then the call has to be rescheduled,
20 unfortunately. Because I have an application, but it is
21 unsworn, and [REDACTED] would have to swear to [REDACTED] affidavit
22 before me so that I can make the necessary attestation.

23 MR. WARD: I see now, yes, that a copy of the
24 affidavit that was attached to our letter motion isn't signed.
25 My understanding is that the sworn and signed one was delivered

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1 to the magistrate. I take it your Honor doesn't have access to
2 a copy of that.

3 THE COURT: No. And it was not clear to me from the
4 papers whether in fact the second warrant application was
5 submitted to the magistrate judge or not.

6 MR. WARD: I can represent to your Honor that it was,
7 and it was also denied.

8 THE COURT: Okay.

9 MS. FITZGERALD: Ms. Phillips from the Southern
10 District presented that magistrate. She is on this call, your
11 Honor.

12 THE COURT: Okay. But the call has to be rescheduled.

13 So let me ask a couple of other questions.

14 The provisions for delayed notice both provide for 90
15 days -- I'm sorry. They provide for one year delayed notice.
16 The statute provides for 90 days. I wasn't sure where you all
17 came up with one year. 90 days, which could be extended, but
18 2705(a) says 90 days and 2705(b) refers to 2705(a), unless I am
19 mistaken.

20 MR. WARD: The language we used in the request for
21 sealing came from our intellectual property section. Our
22 intention was to request the maximum permitted by the statute.
23 I will have to check on the correctness of that and get back to
24 your Honor. If we need to modify that, we will.

25 THE COURT: The statute says 90 days subject to

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1 extension. So you've got to come back after 90 days.

2 MR. WARD: Understood, your Honor.

3 We will modify that request.

4 THE COURT: That's also repeated in the warrant. The
5 warrant specifically says one year rather than 90 days,
6 paragraph 2.

7 MR. WARD: We certainly don't intend to request more
8 than the statute permits, your Honor.

9 THE COURT: My other question is doesn't the warrant
10 need a provision for a return? Normally it would be a return
11 to the magistrate judge. I would think that the warrant should
12 contain a provision that a return has to be made to the
13 magistrate judge on duty. This comes to me because I was the
14 Part 1 judge last Thursday. Rather than passing it along, I've
15 continued, but there is no reason that any further return has
16 to be made to me rather than to the magistrate judge on duty.

17 Shouldn't that be included in the warrant?

18 MR. WARD: Your Honor, I won't profess familiarity
19 with the Southern District's regular warrants practice. This
20 is my first appearance in the district, but if that's the
21 Court's preference, then we can certainly include that.

22 THE COURT: Okay.

23 It's in Rule 41.

24 My next question was, was there a transcript of the
25 proceeding before the magistrate judge? Was there an opinion

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1 from the magistrate judge?

2 MR. WARD: I have not seen one, your Honor. My
3 understanding, and I will defer to AUSA Phillips on this, was
4 that this was an oral finding of no probable cause delivered to
5 AUSA Phillips by telephone. I don't know if there was a court
6 reporter on the line at that time.

7 THE COURT: Ms. Phillips?

8 MS. PHILLIPS: This is Lauren Phillips. I can confirm
9 that she just called me. There was no court reporter.

10 THE COURT: No reporter. I wouldn't normally have a
11 reporter on matters such as Title IIIs. And the only reason
12 that I had a reporter today, though I appreciate the reporter
13 and I appreciate having my questions answered, is because I
14 assumed that the agent would be here and wanted to swear
15 remotely and that oath remotely should certainly be recorded.

16 So you have answered my questions that I had.
17 Unfortunately, this has to be rescheduled either to submit to
18 me the sworn declaration or to have the agent present and swear
19 to it.

20 MR. WARD: Understood, your Honor. We can either take
21 a time from the Court as to when we should come back and we
22 will ensure that the agent is present or if the Court prefers
23 we would be happy to find out if the agent is available in the
24 next -- before close of business the close of Court today. I
25 will try to return with him available.

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1 THE COURT: Okay. The assistant should be able to
2 return with him or with a sworn declaration. As the assistant
3 can attest for you, I am here at long hours, so I can be
4 reached. You can just deal with Mr. Fletcher to set up another
5 time when you're ready.

6 MS. PHILLIPS: We will reach out promptly.

7 THE COURT: Okay. Also make the necessary other
8 changes.

9 MS. PHILLIPS: We absolutely will, your Honor.

10 We apologize for inadvertently wasting your time right
11 now. And we will take care of this promptly and get back in
12 touch Mr. Fletcher.

13 THE COURT: You might compare the warrant to other
14 warrants in the Southern District.

15 Okay. And you never waste my time. Okay.

16 MS. PHILLIPS: Thank you, your Honor.

17 THE COURT: Thank you, all. Great.

18 Bye now.

19 (Adjourned)
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